

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 251

HOUSE BILL 2585

AN ACT

AMENDING SECTION 49-401.01, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 49-411 AND 49-411.01; RELATING TO AIR QUALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 49-401.01, Arizona Revised Statutes, is amended to
3 read:

4 49-401.01. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Administrator" means the administrator of the United States
7 environmental protection agency.

8 2. "Adverse effects to human health" means those effects that result
9 in or significantly contribute to an increase in mortality or an increase in
10 serious irreversible or incapacitating reversible illness, including adverse
11 effects that are known to be or may reasonably be anticipated to be caused
12 by substances that are acutely toxic, chronically toxic, carcinogenic,
13 mutagenic, teratogenic, neurotoxic or causative of reproductive dysfunction.

14 3. "Adverse environmental effect" means any significant and widespread
15 adverse effect which may reasonably be anticipated on wildlife, aquatic life,
16 or other natural resources, including adverse impacts on populations of
17 endangered or threatened species or significant degradation of environmental
18 quality over broad areas.

19 4. "ARIZONA GRAND CANYON VISIBILITY TRANSPORT COMMISSION CLASS I
20 AREAS" MEANS THE FOLLOWING FOUR MANDATORY FEDERAL CLASS I AREAS IN THIS STATE
21 THAT WERE THE SUBJECT OF RECOMMENDATIONS MADE BY THE GRAND CANYON VISIBILITY
22 TRANSPORT COMMISSION PURSUANT TO THE CLEAN AIR ACT:

23 (a) GRAND CANYON NATIONAL PARK.

24 (b) PETRIFIED FOREST NATIONAL PARK.

25 (c) SYCAMORE CANYON WILDERNESS.

26 (d) MOUNT BALDY WILDERNESS.

27 5. "ARIZONA MANDATORY FEDERAL CLASS I AREAS" MEANS THE FOLLOWING EIGHT
28 NATIONAL PARKS AND WILDERNESS AREAS THAT ARE DESIGNATED AS MANDATORY FEDERAL
29 CLASS I AREAS IN THIS STATE PURSUANT TO THE CLEAN AIR ACT AND DOES NOT
30 INCLUDE THE ARIZONA GRAND CANYON VISIBILITY TRANSPORT COMMISSION CLASS I
31 AREAS:

32 (a) PINE MOUNTAIN WILDERNESS.

33 (b) MAZATZAL WILDERNESS.

34 (c) SIERRA ANCHA WILDERNESS.

35 (d) SUPERSTITION WILDERNESS.

36 (e) SAGUARO WILDERNESS.

37 (f) GALIURO WILDERNESS.

38 (g) CHIRICAHUA WILDERNESS.

39 (h) CHIRICAHUA NATIONAL MONUMENT WILDERNESS.

40 ~~4.~~ 6. "Attainment area" means any area in this state that has been
41 identified in regulations promulgated by the administrator as being in
42 compliance with national ambient air quality standards.

43 ~~5.~~ 7. "Begin actual construction" means initiation of physical
44 on-site construction activities on an emissions unit that are of a permanent
45 nature. For purposes of title I, parts C and D and section 112 of the clean

1 air act, these activities include installation of building supports and
2 foundations, laying of underground pipework and construction of permanent
3 storage structures. For purposes other than title I, parts C and D and
4 section 112 of the clean air act, these activities do not include
5 installation of building supports and foundations, laying of underground
6 pipework and construction of permanent storage structures.

7 ~~6.~~ 8. "Building", "structure", "facility" or "installation" means all
8 of the pollutant-emitting activities which belong to the same industrial
9 grouping, are located on one or more contiguous or adjacent properties, and
10 are under the control of the same person or persons under common control
11 except the activities of any vessel. Pollutant-emitting activities shall be
12 considered as part of the same industrial grouping if they belong to the same
13 major group which has the same two digit code, as described in the standard
14 industrial classification manual, 1972, as amended by the 1977 supplement.

15 ~~7.~~ 9. "Clean air act" means the clean air act of 1963 (P.L. 88-206;
16 42 United States Code sections 7401 through 7671) as amended by the clean air
17 act amendments of 1990 (P.L. 101-549).

18 ~~8.~~ 10. "Commence" means, as applied to construction of a source:

19 (a) For purposes other than title IV of the clean air act, that the
20 owner or operator has obtained all necessary preconstruction approval or
21 permits required by federal law and this chapter and has done either of the
22 following:

23 (i) Begun or caused to begin a continuous program of physical on-site
24 construction of the source to be completed within a reasonable time.

25 (ii) Entered into binding agreements or contractual obligations, which
26 cannot be cancelled or modified without substantial loss to the owner or
27 operator, to undertake a program of construction of the source to be
28 completed within a reasonable time.

29 (b) For purposes of title IV of the clean air act, that the owner or
30 operator has undertaken a continuous program of construction or that an owner
31 or operator has entered into a contractual obligation to undertake and
32 complete within a reasonable time a continuous program of construction.

33 ~~9.~~ 11. "Construction" means any physical change in a source or change
34 in the method of operation of a source including fabrication, erection,
35 installation or demolition of a source that would result in a change in
36 actual emissions.

37 ~~10.~~ 12. "Conventional air pollutant" means any pollutant for which the
38 administrator has promulgated a primary or secondary national ambient air
39 quality standard.

40 ~~11.~~ 13. "Federally listed hazardous air pollutant" means any air
41 pollutant adopted pursuant to section 49-426.03, subsection A and not deleted
42 pursuant to that subsection.

43 ~~12.~~ 14. "GRAND CANYON VISIBILITY TRANSPORT COMMISSION" MEANS THE VISIBILITY
44 TRANSPORT COMMISSION ESTABLISHED PURSUANT TO SECTION 169B OF THE CLEAN AIR

1 ACT FOR THE REGION AFFECTING THE VISIBILITY OF THE GRAND CANYON NATIONAL
2 PARK.

3 15. "GRAND CANYON VISIBILITY TRANSPORT COMMISSION CLASS I AREAS" MEANS
4 THE FOLLOWING SIXTEEN MANDATORY FEDERAL CLASS I AREAS IN THE REGION OF GRAND
5 CANYON NATIONAL PARK THAT WERE THE SUBJECT OF RECOMMENDATIONS BY THE GRAND
6 CANYON VISIBILITY TRANSPORT COMMISSION PURSUANT TO THE CLEAN AIR ACT:

- 7 (a) GRAND CANYON NATIONAL PARK IN ARIZONA.
- 8 (b) SYCAMORE CANYON WILDERNESS IN ARIZONA.
- 9 (c) PETRIFIED FOREST NATIONAL PARK IN ARIZONA.
- 10 (d) MOUNT BALDY WILDERNESS IN ARIZONA.
- 11 (e) SAN PEDRO PARKS WILDERNESS IN NEW MEXICO.
- 12 (f) MESA VERDE NATIONAL PARK IN COLORADO.
- 13 (g) WEMINUCHE WILDERNESS IN COLORADO.
- 14 (h) BLACK CANYON OF THE GUNNISON WILDERNESS IN COLORADO.
- 15 (i) WEST ELK WILDERNESS IN COLORADO.
- 16 (j) MAROON BELLS-SNOWMASS WILDERNESS IN COLORADO.
- 17 (k) FLAT TOPS WILDERNESS IN COLORADO.
- 18 (l) ARCHES NATIONAL PARK IN UTAH.
- 19 (m) CANYONLANDS NATIONAL PARK IN UTAH.
- 20 (n) CAPITOL REEF NATIONAL PARK IN UTAH.
- 21 (o) BRYCE CANYON NATIONAL PARK IN UTAH.
- 22 (p) ZION NATIONAL PARK IN UTAH.

23 ~~12.~~ 16. "Hazardous air pollutant" means any federally listed hazardous
24 air pollutant and any air pollutant that the director has designated as a
25 hazardous air pollutant pursuant to section 49-426.04, subsection A and has
26 not deleted pursuant to section 49-426.04, subsection B.

27 ~~13.~~ 17. "Hazardous air pollutant reasonably available control
28 technology" means an emissions standard for hazardous air pollutants which
29 the director, acting pursuant to section 49-426.06, subsection C, or the
30 control officer, acting pursuant to section 49-480.04, subsection C,
31 determines is reasonably available for a source. In making the foregoing
32 determination the director or control officer shall take into consideration
33 the estimated actual air quality impact of the standard, the cost of
34 complying with the standard, the demonstrated reliability and widespread use
35 of the technology required to meet the standard and any non-air quality
36 health and environmental impacts and energy requirements. For purposes of
37 this definition, an emissions standard may be expressed as a numeric
38 emissions limitation or as a design, equipment, work practice or operational
39 standard.

40 ~~14.~~ 18. "Maintenance area" means any nonattainment area that has been
41 redesignated by the administrator to attainment status.

42 ~~15.~~ 19. "Major source" means a stationary source or a group of
43 stationary sources that is located within a contiguous area, that is under
44 common control and that is defined as a major source in section 501(2) of the
45 clean air act or that is a major emitting facility as defined in title 1,

1 part C of the clean air act or that is defined in department rules as a major
2 source consistent with the clean air act.

3 20. "MANDATORY FEDERAL CLASS I AREAS" MEANS THOSE NATIONAL PARKS,
4 MONUMENTS AND WILDERNESS AREAS THAT ARE INCLUDED IN 40 CODE OF FEDERAL
5 REGULATIONS SECTIONS 81.400 THROUGH 81.436 PURSUANT TO THE CLEAN AIR ACT.

6 ~~16~~ 21. "Maximum achievable control technology" means an emission
7 standard that requires the maximum degree of reduction in emissions of the
8 hazardous air pollutants subject to this chapter, including a prohibition on
9 such emissions where achievable, and that the director, after considering the
10 cost of achieving such emission reduction and any non-air quality health and
11 environmental impacts and energy requirements, determines to be achievable
12 by an affected source to which such standard applies, through application of
13 measures, processes, methods, systems or techniques including measures which:

14 (a) Reduce the volume of, or eliminate emissions of, such pollutants
15 through process changes, substitution of materials or other modifications.

16 (b) Enclose systems or processes to eliminate emissions.

17 (c) Collect, capture or treat such pollutants when released from a
18 process, stack, storage or fugitive emissions point.

19 (d) Are design, equipment, work practice, or operational standards,
20 including requirements for operator training or certification.

21 (e) Are a combination of the above.

22 ~~17~~ 22. "Minor source" means any stationary or portable source that
23 is not a major source.

24 ~~18~~ 23. "Mobile source" means any combustion engine, device, machine
25 or equipment that operates during transport and that emits or generates air
26 contaminants whether in motion or at rest.

27 ~~19~~ 24. "Modification" or "modify" means a physical change in or
28 change in the method of operation of a source which increases the actual
29 emissions of any regulated air pollutant emitted by such source by more than
30 any relevant de minimis amount or which results in the emission of any
31 regulated air pollutant not previously emitted by more than such de minimis
32 amount.

33 ~~20~~ 25. "National ambient air quality standard" means the ambient air
34 pollutant concentration limits established by the administrator pursuant to
35 42 United States Code section 7409.

36 ~~21~~ 26. "Nonattainment area" means any area in this state that is
37 designated as prescribed by section 49-405 and where violations of national
38 ambient air quality standards have been measured.

39 ~~22~~ 27. "Nonattainment area plan" means an air pollution control plan
40 developed in accordance with 42 United States Code sections 7501 through
41 7515.

42 ~~23~~ 28. "Permitting authority" means the department or a county
43 department or agency that is charged with enforcing a permit program adopted
44 pursuant to section 49-480, subsection A.

1 ~~24.~~ 29. "Planning agency" means an organization designated by the
2 governor pursuant to 42 United States Code section 7504.

3 ~~25.~~ 30. "Portable source" means any stationary source that is capable
4 of being transported and operated in more than one county of this state.

5 ~~26.~~ 31. "Potential to emit" means:

6 (a) For purposes of section 112 of the clean air act, the maximum
7 capacity of a stationary source to emit a pollutant, excluding secondary
8 emissions, taking into account controls that are enforceable under any
9 federal law or regulation or that are inherent in the design of the source.

10 (b) For purposes other than section 112 of the clean air act, the
11 maximum capacity of a stationary source to emit a pollutant, excluding
12 secondary emissions, taking into account controls that are enforceable under
13 any federal, state or local law, rule or regulation or that are inherent in
14 the design of the source.

15 ~~27.~~ 32. "Primary standard attainment date" means the date defined
16 within a nonattainment area plan in accordance with 42 United States Code
17 sections 7401 through 7515 or applicable regulations adopted by the United
18 States environmental protection agency by January 1, 1999 and after which
19 date primary national ambient air quality standards may not be violated.

20 ~~28.~~ 33. "Reasonable further progress" means the schedule of emission
21 reductions defined within a nonattainment area plan as being necessary to
22 come into compliance with a national ambient air quality standard by the
23 primary standard attainment date.

24 ~~29.~~ 34. "Source" means any building, structure, facility or
25 installation that may cause or contribute to air pollution or the use of
26 which may eliminate, reduce or control the emission of air pollution.

27 ~~30.~~ 35. "State implementation plan" means the accumulated record of
28 enforceable air pollution control measures, programs and plans adopted by the
29 director and submitted to the administrator pursuant to 42 United States Code
30 section 7410.

31 ~~31.~~ 36. "Stationary source" means any facility, building, equipment,
32 device or machine that operates at a fixed location and that emits or
33 generates air contaminants.

34 ~~32.~~ 37. "Unclassifiable area" means all areas of this state for which
35 inadequate ambient air quality data exist to determine compliance with the
36 national ambient air quality standards.

37 Sec. 2. Title 49, chapter 3, article 1, Arizona Revised Statutes, is
38 amended by adding sections 49-411 and 49-411.01, to read:

39 49-411. Regional haze program; authority

40 THE DEPARTMENT MAY PARTICIPATE IN INTERSTATE REGIONAL HAZE PROGRAMS
41 THAT ARE ESTABLISHED BY THE REGIONAL PLANNING ORGANIZATION THAT IS AUTHORIZED
42 FOR THIS REGION PURSUANT TO 40 CODE OF FEDERAL REGULATIONS PART 51, SUBPART
43 D AND THE CLEAN AIR ACT.

49-411.01. State implementation plan revision; regional haze;
rules

A. THE DIRECTOR SHALL SUBMIT TO THE ADMINISTRATOR STATE IMPLEMENTATION PLAN REVISIONS TO ADDRESS REGIONAL HAZE VISIBILITY IMPAIRMENT IN MANDATORY FEDERAL CLASS I AREAS. THE STATE IMPLEMENTATION PLAN REVISIONS SUBMITTED TO THE ADMINISTRATOR SHALL ADDRESS ANY OF THE FOLLOWING AS NECESSARY TO SUBMIT AN APPROVABLE PLAN:

1. THE APPLICABLE TIME PERIOD.
 2. A MONITORING STRATEGY FOR REGIONAL HAZE VISIBILITY IMPAIRMENT.
 3. CALCULATIONS OF BASELINE VISIBILITY CONDITIONS AND NATURAL VISIBILITY CONDITIONS.
 4. COMPREHENSIVE EMISSIONS TRACKING STRATEGIES FOR CLEAN AIR CORRIDORS.
 5. IMPLEMENTATION OF STATIONARY SOURCE EMISSIONS REDUCTION STRATEGIES.
 6. PROVISIONS ADDRESSING MOBILE SOURCE EMISSIONS.
 7. PROGRAMS RELATED TO EMISSIONS FROM FIRE SOURCES DEFINED AS WILDLAND FIRE, INCLUDING WILDFIRE, PRESCRIBED NATURAL FIRE, WILDLAND FIRE USE, PRESCRIBED FIRE AND AGRICULTURAL BURNING CONDUCTED AND OCCURRING ON FEDERAL, STATE AND PRIVATE LANDS.
 8. PROVISIONS ADDRESSING THE IMPACT OF DUST EMISSIONS ON VISIBILITY IMPAIRMENT.
 9. PROVISIONS RELATING TO POLLUTION PREVENTION.
 10. BEST AVAILABLE RETROFIT TECHNOLOGY REQUIREMENTS.
 11. A REPORT THAT ASSESSES EMISSIONS CONTROL STRATEGIES FOR STATIONARY SOURCE EMISSIONS OF OXIDES OF NITROGEN AND PARTICULATE MATTER AND THE DEGREE OF VISIBILITY IMPROVEMENT THAT WOULD RESULT FROM IMPLEMENTED STRATEGIES.
 12. A LONG-TERM STRATEGY THAT ADDRESSES REGIONAL HAZE VISIBILITY IMPAIRMENT.
 13. ADDITIONAL MEASURES NECESSARY TO MAKE REASONABLE PROGRESS TOWARD REMEDYING EXISTING AND PREVENTING FUTURE REGIONAL HAZE IN MANDATORY FEDERAL CLASS I AREAS.
 14. FOR THE ARIZONA GRAND CANYON VISIBILITY TRANSPORT COMMISSION CLASS I AREAS, A PROJECTION OF THE IMPROVEMENT IN VISIBILITY CONDITIONS THAT ARE EXPECTED FROM THE IMPLEMENTATION OF ALL MEASURES SET FORTH IN THE IMPLEMENTATION PLAN.
 15. FOR THE EIGHT OTHER ARIZONA MANDATORY FEDERAL CLASS I AREAS, PROVISIONS FOR THE ESTABLISHMENT OF REASONABLE PROGRESS GOALS.
 16. PERIODIC PROGRESS REPORTS.
- B. THE DEPARTMENT MAY ESTABLISH INTRASTATE MARKET TRADING PROGRAMS AND PARTICIPATE IN INTERSTATE MARKET TRADING PROGRAMS AS NECESSARY TO SUBMIT AN APPROVABLE PLAN UNDER SUBSECTION A.
- C. THE DIRECTOR MAY ADOPT RULES NECESSARY FOR THE REVISIONS TO THE STATE IMPLEMENTATION PLAN THAT ADDRESS REGIONAL HAZE.

1 D. EXCEPT AS PROVIDED IN SUBSECTION E, THE DEPARTMENT MAY MEET THE
2 REQUIREMENTS OF SUBSECTION A BY SUBMITTING PLAN REVISIONS UNDER 40 CODE OF
3 FEDERAL REGULATIONS SECTION 51.308 OR SECTION 51.309.

4 E. THE DEPARTMENT MAY SUBMIT A PLAN REVISION UNDER 40 CODE OF FEDERAL
5 REGULATIONS SECTION 51.309 ONLY IF THE REVISION CONTAINS A DETERMINATION
6 PURSUANT TO 40 CODE OF FEDERAL REGULATIONS SECTION 51.309 (d)(5)(ii) THAT
7 MOBILE SOURCE EMISSIONS FROM AREAS WITHIN THE STATE DO NOT CONTRIBUTE
8 SIGNIFICANTLY TO VISIBILITY IMPAIRMENT IN ANY OF THE GRAND CANYON VISIBILITY
9 TRANSPORT COMMISSION CLASS 1 AREAS.

APPROVED BY THE GOVERNOR MAY 20, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2002.

Passed the House April 8, 2002,

by the following vote: 44 Ayes,

6 Nays, 10 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate April 30, 2002,

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2585

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

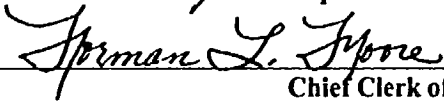
May 16, 2002,

by the following vote: 52 Ayes,

5 Nays, 3 Not Voting



Speaker of the House



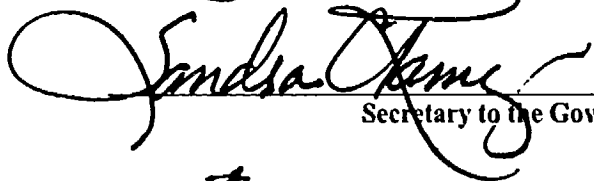
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

16 day of May, 2002

at 3:00 o'clock P M.



Secretary to the Governor

Approved this 20th day of

May, 2002

at 10:00 o'clock A M.



Governor of Arizona

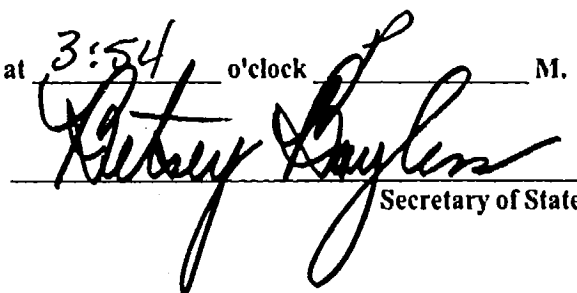
H.B. 2585

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of May, 2002

at 3:54 o'clock P M.



Secretary of State